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REMARKS

The present response is to the Office Action mailed in the above-referenced case on January 25, 2007. Claims 41-44 are standing for examination. Claims 41-44 stand rejected under 35 U.S.C. 102(e) as anticipated by Faecher, US Pub. 2001/0035088, hereinafter Faecher. Faecher is a new reference newly produced in a sixth round of examination, and applicant's arguments in the previous response are therefore considered moot.

Applicant had a short telephone conference with Examiner Grier recently, and pointed out the distinct differences between the teachings of Faecher and the limitations of applicant's independent claims. That difference is restated her for clarity.

Applicant's invention as claimed is known in the art as a "stomp box". This is an electronic device capable of receiving an input audio data stream, amending the nature of that input stream by executing an executable audio application, and outputting the amended audio data stream to, for example, a speaker, a set of speakers, or a memory device for recording the output.

The reference Faecher fairly teaches a system in which audio files may be downloaded from a network source, such as the internet, and caused to play music on a toy guitar, for example. This is abundantly clear from several portions of the specification of Faecher, for example paragraph [30]. "...the digital code will contain digitized sound effects and/or musical "riffs"". This is not an audio-effects software application, but playable audio code sent to a speaker as downloaded.

In claim 41, presented here for clarity, the applicant has caused to be italicized two limitations.

41. (Previously presented) An audio processing system, comprising:

an audio processing unit *receiving an input audio stream and producing a first output audio stream from the input stream by executing a first audio-effects software application*; and

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an Internet connected appliance connected to the audio processing unit;
wherein the Internet-connected appliance accesses an Internet site, *downloads a second audio-effects software application, and transmits the second audio-effects software application to the audio processing unit, which substitutes the second application for the first, and produces a new output stream using the second application.*

The first of the italicized limitations describes a first software application operating on an input data stream to produce a different output data stream. Such a limitation is nowhere taught in Faecher. The second italicized limitation describes a second software application operating on the input data stream to produce yet a different output audio data stream. This limitation is also nowhere to be found in Faecher. These limitations provide a patentable difference over the art cited and applied.

Similar limitations are extant in claim 43, which is therefore also patentable, and the two depended claims are therefore patentable at least as depended from a patentable claim.

It appears in the present action that the examiner has simply ignored the arguments we made in response to the last action. Specifically ignored is the limitation that the claim recites "*receiving an input audio stream and producing a first output audio stream from the input stream by executing a first audio-effects software application*". Faecher does not do this, but simply downloads and plays audio files (music). The applicant insists that in response to this paper the examiner treat of the argument made, and describe to the applicant how Faecher reads on the actual claim limitations, which so far has not been done. The applicant's agent will also call the supervisor to request that this be done, rather than simply reproducing the previous rejections with no explanation or answer to the arguments fairly made.

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These claims are clearly allowable over the art applied, and the applicant therefore respectfully requested that the claims be allowed and that this case be passed quickly to issue. If there are any time extensions needed beyond any extension specifically requested with this amendment, such extension of time is hereby requested. If there are any fees due beyond any fees paid with this amendment, authorization is given to deduct such fees from deposit account 50-0534.

Respectfully Submitted,
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